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In re Application of :
Eric D. Fagerburg et al. :
Application No. 09/752,100 :
Filed: December 29, 2000 :
Attorney Docket No. 10559-322001/P9683 :

OFFICE OF PETITIONS

ON PETITION

This is a decision in response to the petition filed January 16, 2008 under 37 CFR 1.181(b) to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before October 26, 2007 as was required by the Notice of Allowance mailed July 26, 2007. This application therefore became abandoned on October 29, 2007. Accordingly, a Notice of Abandonment was mailed November 20, 2007.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the Computerized Docket and Manual Mail Log revealed that the Notice was not received and submits copies of pages from the docketing system and the mail log, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

Since the issue fee was tendered on January 17, 2008, this matter is being referred to the Publishing Division to be processed into a Patent. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions